



January 3, 2002

Ms. Susan C. Rocha
Denton, Navarro & Bernal
1700 Tower Live Building
310 South St. Mary's Street
San Antonio, Texas 78205-3111

OR2002-0034

Dear Ms. Rocha:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156827.

The San Antonio Water System ("SAWS") received a request for:

All SAWS Management Services Committee Minutes since Jan. 1, 2001.

A "record layout" of any and all databases that includes, but is not limited to employee name and job title (including payroll database).

Any and all records summarizing or giving statistical breakdowns of any and all terminations and/or disciplines of employees or SAWS representatives.

You claim that the requested information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.107, 552.108, 552.111, 552.116, and 552.1175 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you did not submit any information responsive to category three of the present request. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from disclosure. Therefore, to the extent information responsive to this aspect of the request exists, we assume that you have released

¹As you did not submit to this office written comments stating the reasons why sections 552.103, 552.107, 552.108, 552.111, and 552.116 would allow the information to be withheld, we find that you have waived these exceptions. See Gov't Code §§ 552.301, .302.

it to the requestor. If you have not released any such information, you must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302. Because you have not submitted this information, we have no basis for finding it confidential. *See* Gov't Code § 552.352. Thus, we have no choice but to order any such information released, to the extent it exists, per section 552.302 of the Government Code. If you believe any such information is confidential and may not lawfully be released, you must challenge this decision in court as outlined below.

Next, we note that most of the submitted information, which you have submitted as responsive to the second category of requested information, does not appear to be responsive to the present request. Specifically, the requestor seeks "'a record layout' of any and all databases." The requestor clarifies this request by explaining that a "record layout" consists of "a listing (by name or category) of what is listed in each field of a database." Therefore, only the field names or field categories in the submitted documents are responsive to the present request. As the information contained within each of the field names or field categories is not responsive to this request, such information need not be released to the requestor. Therefore, with the exception of the field names or field categories within the submitted documents, the submitted information need not be released.²

Finally, with respect to the first category of requested information, you contend that "certified agendas or tape recordings of closed sessions of meetings cannot be released under authority of the Open Meetings Act and the Public Information Act." Section 552.101 of the Government Code excepts from disclosure information deemed confidential by law. Section 551.104(c) of the Government Code provides that "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying *only under a court order issued under Subsection (b)(3).*" (Emphasis added.) Thus, such information cannot be released to a member of the public in response to an open records request. *See* Open Records Decision No. 495 (1988). You state that "[n]o such court order has been produced by the requestor." Therefore, we agree that SAWS must withhold any certified agenda or tape recording of a closed meeting that may be responsive to this request under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code. Any other information responsive to the first category of requested information must be released. *See* Gov't Code §§ 552.301, .302.

To summarize, we conclude that: (1) SAWS must release all information responsive to category three of the present request, to the extent such information exists and has not already been released; (2) SAWS must release the field names/categories within the submitted documents; (3) the remaining information within the submitted documents is not responsive, and need not be released; (4) SAWS must withhold any certified agenda or tape

² As we are able to make this determination, we need not address the applicability of your claimed exceptions to the submitted information.

recording of a closed meeting that may be responsive to this request under section 552.101 in conjunction with section 551.104(c) of the Government Code; and (5) any other information responsive to the first category of requested information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/sdk

Ref: ID# 156827

Enc: Submitted documents

c: Mr. Brian Collister
Reporter
KMOL TV
P.O. Box 2641
San Antonio, Texas 78299-2641
(w/o enclosures)